

PSD program must comply with all applicable recordkeeping and reporting requirements. A vessel or processor participating in the PSD program must comply with applicable regulations at §§ 679.7(c)(1) and 679.21(c) that allow for the collection of data and biological sampling by a NMFS-certified observer prior to processing any fish under the PSD program.

(2) Prohibited species retained under the PSD program must be packaged, and all packages must be labeled with the date of processing, the name of the processing facility, the contents and the weight of the fish contained in the package, and the words, "NMFS PROHIBITED SPECIES DONATION PROGRAM - NOT FOR SALE - PERISHABLE PRODUCT - KEEP FROZEN".

(3) A processor retaining or receiving fish under the PSD program and an authorized distributor must keep on file and make available for inspection by an authorized officer all documentation, including receipt and cargo manifests setting forth the origin, weight, and destination of all prohibited species bycatch. Such documentation must be retained until 3 years after the effective period of the PSD permit.

(d) *Processing, handling, and distribution.* (1) Processing and reprocessing of all fish retained under the PSD Program must be carried out under the direction of the authorized distributor. A processor retaining or receiving fish under the PSD Program, at a minimum, must head, gut, and freeze the fish in a manner that makes it fit for human consumption.

(2) Fish that are determined to be unfit for human consumption prior to delivery to an authorized distributor must be discarded under § 679.21(b). Fish that are determined to be unfit for human consumption after delivery to the authorized distributor must be destroyed in accordance with applicable sanitation laws and regulations.

(3) Authorized distributors and persons conducting activities supervised by authorized distributors may retain prohibited species only for the purpose of processing and delivering the prohibited species to hunger relief agencies, food networks or food distributors as provided by this section. Such persons may not consume or retain prohibited

species for personal use and may not sell, trade or barter, or attempt to sell, trade or barter any prohibited species that is retained under the PSD program, except that processors may convert offal from salmon or halibut that has been retained pursuant to the PSD program into fish meal, fish oil, or bone meal, and sell or trade these products.

(4) No prohibited species that has been sorted from a vessel's catch or landing may be retained by a vessel or processor, or delivered to a delivery location under this section, unless the vessel or processor and delivery location is included on the list provided to the Regional Administrator under paragraph (b)(1)(xi), (b)(1)(xiii) or (b)(3)(v) of this section.

[61 FR 38359, July 24, 1996, as amended at 63 FR 32145, 32146, June 12, 1998; 65 FR 78121, Dec. 14, 2000; 66 FR 53122, Oct. 19, 2001; 67 FR 4148, Jan. 28, 2002; 69 FR 52612, Aug. 27, 2004]

EFFECTIVE DATE NOTE: At 67 FR 4158, Jan. 28, 2002, § 679.26 was amended in paragraph (c)(3) by removing the words "until 1 year after" and inserting in its place "until 3 years after". The amendment contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 679.27 Improved Retention/Improved Utilization Program.

(a) *Applicability.* The owner or operator of a vessel that is required to obtain a Federal fisheries or processor permit under § 679.4 must comply with the IR/IU program set out in this section while fishing for groundfish in the GOA or BSAI, fishing for groundfish in waters of the State of Alaska that are shoreward of the GOA or BSAI, or when processing groundfish harvested in the GOA or BSAI.

(b) *IR/IU species.* The following species are defined as "IR/IU species" for the purposes of this section:

(1) Pollock.

(2) Pacific cod.

(3) Shallow-water flatfish species complex in the GOA as defined in the annual harvest specifications for the GOA (beginning January 1, 2003).

(4) All species listed in Table 2a to this part for purposes of the GRS program described in paragraph (j) of this

section, except for groundfish in prohibited species status at the end of each reporting week.

(c) *Minimum retention requirements*—(1) *Definition of retain on board*. Notwithstanding the definition at 50 CFR

600.10, for the purpose of this section, to retain on board means to be in possession of on board a vessel.

(2) The following table displays minimum retention requirements by vessel category and directed fishing status:

If you own or operate a ...	and ...	you must retain on board until lawful transfer ...
(i) Catcher vessel	(A) Directed fishing for an IR/IU species is open	all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	all fish of that species brought on board the vessel up to the MRA for that species.
	(C) Retention of an IR/IU species is prohibited	no fish of that species.
(ii) Catcher/processor	(A) Directed fishing for an IR/IU species is open	a primary product from all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	a primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRA for that species.
	(C) Retention of an IR/IU species is prohibited	no fish or product of that species.
(iii) Mothership	(A) Directed fishing for an IR/IU species is open	a primary product from all fish of that species brought on board the vessel
	(B) Directed fishing for an IR/IU species is prohibited.	a primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRA for that species.
	(C) Retention of an IR/IU species is prohibited	no fish or product of that species.

(d) *Bleeding codends and shaking longline gear*. Any action intended to discard or release an IR/IU species prior to being brought on board the vessel is prohibited. This includes, but is not limited to bleeding codends and shaking or otherwise removing fish from longline gear.

(e) *At-sea discard of product*. Any product from an IR/IU species may not be discarded at sea, unless such discarding is necessary to meet other requirements of this part.

(f) *Discard of fish or product transferred from other vessels*. The retention requirements of this section apply to all IR/IU species brought on board a vessel, whether harvested by that vessel or transferred from another vessel. At-sea discard of IR/IU species or products that were transferred from another vessel is prohibited.

(g) *IR/IU species as bait*. IR/IU species may be used as bait provided that the deployed bait is physically secured to authorized fishing gear. Dumping of unsecured IR/IU species as bait (chumming) is prohibited.

(h) *Previously caught fish*. The retention and utilization requirements of this section do not apply to incidental

catch of dead or decomposing fish or fish parts that were previously caught and discarded at sea.

(i) *Minimum utilization requirements*. If you own or operate a catcher/processor or mothership, the minimum utilization requirement for an IR/IU species harvested in the BSAI is determined by the directed fishing status for that species according to the following table:

If...	then your total weight of retained or lawfully transferred products produced from your catch or receipt of that IR/IU species during a fishing trip must...
(1) directed fishing for an IR/IU species is open,	equal or exceed 15 percent of the round-weight catch or round-weight delivery of that species during the fishing trip.
(2) directed fishing for an IR/IU species is prohibited,	equal or exceed 15 percent of the round-weight catch or round-weight delivery of that species during the fishing trip or 15 percent of the MRA for that species, whichever is lower.
(3) retention of an IR/IU species is prohibited,	equal zero.

(j) *Groundfish retention standard*. (Effective January 20, 2008)—(1) *Applicability*. (i) The operator of a catcher/processor not listed in § 679.4(1)(2)(i),

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not assigned to an Amendment 80 cooperative, and using trawl gear in the BSAI must comply with the GRS set forth under paragraph (j)(4) of this section while fishing for or processing groundfish caught from the BSAI from January 1 through December 31 of each year.

(ii) An Amendment 80 cooperative and the members of an Amendment 80 cooperative must comply with the GRS set forth under paragraph (j)(4) of this section while fishing for or processing groundfish caught from the BSAI from January 1 through December 31 of each year.

(iii) No part of the GRS supersedes minimum retention or utilization requirements for IR/IU species found in this section.

(2) *Percent of groundfish retained calculation for a catcher/processor not in an Amendment 80 cooperative.* For any fishing year, the percent of groundfish retained by each catcher/processor not listed in § 679.4(l)(2)(i), not assigned to an Amendment 80 cooperative, and using trawl gear in the BSAI will be calculated using the following equations:

$$\text{GFoundweight} = \sum_{i=1}^n (\text{PWspecies}_n / \text{PRRspecies}_n)$$

Substituting the value for GFoundweight into the following equation:

$$\text{GFR}\% = (\text{GFoundweight} / \text{TotalGF}) * 100$$

Where:

GFoundweight is the total annual round weight equivalent of all retained product weights for each IR/IU groundfish species.

PWspecies_n is the total annual product weight for each groundfish species listed in Table 2a to this part by product type as reported in the vessel's production report required at § 679.5(e)(10).

PRRspecies_n is the standard product recovery rate for each groundfish species and product combination listed in Table 3 to this part.

GFR% is the groundfish retention percentage for a vessel calculated as

GFoundweight divided by the total weight of groundfish catch.

TotalGF is the total groundfish round catch weight as measured by the flow scale measurement, less any non-groundfish, PSC species or groundfish species on prohibited species status under § 679.20.

(3) *Percent of groundfish retained calculation for an Amendment 80 cooperative.* For each Amendment 80 cooperative, for any fishing year, the percent of groundfish retained by that Amendment 80 cooperative is based on the aggregate groundfish retained by all Amendment 80 vessels assigned to that Amendment 80 cooperative and will be calculated using the following equations:

$$\text{GFoundweight} = \sum_{i=1}^n (\text{PWspecies}_n / \text{PRRspecies}_n)$$

Substituting the value for GFoundweight into the following equation:

$$\text{GFR}\% = (\text{GFoundweight} / \text{TotalGF}) * 100$$

Where:

GFoundweight is the total annual round weight equivalent of all retained product weights retained by all Amendment 80 vessels assigned to that Amendment 80 cooperative for each IR/IU groundfish species.

PWspecies_n is the total annual product weight for each groundfish species listed in Table 2a to this part by product type as reported in the vessel's weekly production

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report for all Amendment 80 vessels assigned to that Amendment 80 cooperative required at § 679.5(i).

PRRspecies_n is the standard product recovery rate for each groundfish species and product combination listed in Table 3 to this part.

GFR% is the groundfish retention percentage for an Amendment 80 cooperative calculated as GFroundweight divided by the total weight of groundfish catch.

TotalGF is the total groundfish round catch weight for all Amendment 80 vessels assigned to that Amendment 80 cooperative as measured by the flow scale measurement, less any non-groundfish, PSC species or groundfish species on prohibited species status under § 679.20.

(4) *Minimum groundfish retention standard.* An Amendment 80 cooperative or a catcher/processor not listed in § 679.4(1)(2)(i), not assigned to an Amendment 80 cooperative, and using trawl gear in the BSAI must comply with the annual minimum groundfish retention standard requirements displayed in the following table:

GROUNDFISH RETENTION STANDARD	
Year	Annual GRS (percent)
2008	65
2009	75
2010	80
2011 and each year after	85

(5) *Monitoring requirements—(i) Observer coverage requirements.* In addition to complying with minimum observer coverage requirements at § 679.50(c), the owner of an Amendment 80 vessel or any other catcher/processor not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI, must comply with observer coverage requirements as described at §§ 679.50(c)(6), and 679.7(m)(3) at all times the vessel is used to harvest groundfish in the BSAI with trawl gear.

(ii) *Catch weighing.* For each haul, all catch by an Amendment 80 vessel or any other catcher/processor not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI must be weighed on a NMFS-approved scale and made available for sampling by a NMFS certified observer at a single location. The owner or operator of an Amendment 80 vessel or a catcher/processor not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI must ensure that the vessel

is in compliance with the scale requirements described at § 679.28(b), that each haul is weighed separately, and that no sorting of catch takes place prior to weighing. All weighed catch must be recorded as required at § 679.5(a)(7)(iv)(C).

(iii) *Observer sampling station.* The owner or operator of an Amendment 80 vessel or any other catcher/processor not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI must provide an observer sampling station as described at § 679.28(d) and the owner of the vessel must ensure that the vessel operator complies with the observer sampling station requirements described at § 679.28(d) at all times the vessel is used to harvest groundfish in the BSAI. In addition to the requirements at § 679.28(d)(7)(ii), observers must be able to sample all catch from a single point along the conveyer belt conveying unsorted catch, and when standing where unsorted catch is collected, the observer must be able to see that no catch has been removed between the bin and the location along the conveyer belt at which the observers collect their samples.

(6) *Requirements for vessels that also harvest groundfish outside of the BSAI.* The operator of an Amendment 80 vessel, or any other vessel required to comply with paragraph (j) of this section, must offload or transfer all fish or fish product prior to harvesting fish outside the BSAI, unless the operator of the vessel is in compliance with the recordkeeping and reporting and monitoring requirements described at § 679.5(a)(7)(iv)(C) and paragraph (j)(5) of this section at all times the vessel harvests or processes groundfish outside the BSAI.

(7) *Requirements for vessels receiving deliveries of unsorted catch.* The owner or operator of an Amendment 80 vessel, or any other vessel required to comply with this paragraph (j) at any time during a fishing year and who also receives deliveries of unsorted catch at any time during a fishing year must comply with paragraph (j)(5) of this

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section while processing deliveries of unsorted catch.

[62 FR 63890, Dec. 3, 1997, as amended at 62 FR 65381, Dec. 12, 1997; 68 FR 52144, Sept. 2, 2003; 69 FR 32903, June 14, 2004; 71 FR 17381, Apr. 6, 2006; 72 FR 52722, Sept. 14, 2007; 73 FR 76166, Dec. 15, 2008]

§ 679.28 Equipment and operational requirements.

(a) *Applicability.* This section contains the operational requirements for scales, observer sampling stations, bins for volumetric estimates, vessel monitoring system hardware, catch monitoring and control plan, and catcher vessel electronic logbook software. The operator or manager must retain a copy of all records described in this section (§ 679.28) as indicated at § 679.5(a)(5) and (6) and make available the records upon request of NMFS observers and authorized officers as indicated at § 679.5(a)(5).

(b) *Scales used to weigh catch at sea.* In order to be approved by NMFS a scale used to weigh catch at sea must meet the type evaluation requirements set forth in paragraph (b)(1) of this section and the initial inspection and annual reinspection requirements set forth in paragraph (b)(2) of this section. Once a scale is installed on a vessel and approved by NMFS for use to weigh catch at sea, it must be reinspected annually and must be tested daily and meet the maximum permissible error (MPE) requirements described in paragraph (b)(3) of this section.

(1) *List of scales eligible for approval.* The model of scale must be included on the Regional Administrator's list of scales eligible to be approved for weighing catch at sea before an inspector will schedule or conduct a scale inspection under paragraph (b)(2) of this section. A scale will be included on the list when the Regional Administrator receives the information specified in paragraphs (b)(1)(i) through (iv) of this section. This information identifies and describes the scale, sets forth contact information regarding the manufacturer, and sets forth the results of required type evaluations and testing. Type evaluation and testing must be conducted by a laboratory accredited by the government of the country in which the tests are conducted.

(i) *Information about the scale.* (A) Name of scale manufacturer.

(B) Name of manufacturer's representative.

(C) Mailing address of scale manufacturer and manufacturer's representative.

(D) Telephone and fax number of manufacturer's representative.

(E) Model and serial number of the scale tested.

(F) A written description of the scale and diagrams explaining how the scale operates and how it compensates for motion.

(G) A list of the model numbers of all scales for which type evaluation results are applicable, identifying the differences between the model evaluated in the laboratory and other models listed. The scales may differ only in the elements of the scale that perform motion compensation, the size or capacity of the scale, and the software used by the scale.

(H) A list of types of scale adjustments that will be recorded on the audit trail, including the name of the adjustment as it will appear on the audit trail, and a written description of the adjustment.

(ii) *Information about the laboratory.*

(A) Name of laboratory.

(B) Mailing address of laboratory.

(C) Telephone and fax number of laboratory's representative.

(D) Name and address of government agency accrediting the laboratory.

(E) Name and signature of person responsible for evaluation of the scale and the date of signature.

(iii) *Checklist.* A completed checklist indicating that all applicable technical and performance standards in appendix A to this part and the laboratory tests in the annex to appendix A to this part have been met.

(iv) *Verification of test results.* Verification that a scale meets the laboratory evaluation and testing requirements in appendix A of this part and each of the influence quantity and disturbance tests as specified in the annex to appendix A to this part:

(A) Test results and data on forms supplied by NMFS;